

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

No. 17-71353

INTERNATIONAL UNION OF PAINTERS  
AND ALLIED TRADES, DISTRICT  
COUNCIL 15, LOCAL 159, AFL-CIO,

Case No. 362 N.L.R.B. No. 190  
28-CA-060941

Intervenor,

v.

CAESARS ENTERTAINMENT, DBA Rio  
All-Suites Hotel and Casino,

Respondent.

INTERNATIONAL UNION OF PAINTERS  
AND ALLIED TRADES, DISTRICT  
COUNCIL 15, LOCAL 159, AFL-CIO,

No. 17-71353

Petitioner,

Case No. 362 N.L.R.B. No. 190  
28-CA-060941

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

**REPLY TO OPPOSITION TO MOTION TO STAY BRIEFING SCHEDULE**

**David A. Rosenfeld, Bar No. 058163  
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**Attorneys for *Intervenor*, INTERNATIONAL UNION OF PAINTERS AND  
ALLIED TRADES, DISTRICT COUNCIL 15, LOCAL 159, AFL-CIO**

1. Caesars short opposition quibbles with the word “dismiss.” The Board’s Motion for Partial Remand and Partial Summary Enforcement seeks to have this matter taken from this Court and sent back to the Board. This is also known as remand. That is the same as dismissing the appeal which is brought from the District Court.

2. It is true that the Board seeks enforcement of only one allegation, but the remand, meaning “dismissal” of the remaining portion of the case, is sought. Briefing can’t be meaningfully accomplished until the Court decides whether to “remand” the most substantial portion of this case or not.

3. The same issues were presented in *Sara Parrish v. National Labor Relations Board*, Case No. 17-70648 [consolidated with Case Nos. 17-71483 and 17-71570]. Although the circumstances are not exactly the same, the Board sought to sever and remand portions of that case as it has done in this case. Attached as Exhibit A is true and correct copy of this Court’s Order referring those issues to the “panel to be assigned to decide the merits of these consolidated petitions.” Here, Petitioner International Painters suggests that this is the appropriate result and it would moot the motion to stay the briefing schedule. The Court should thus refer the pending motions to the merits panel and reset the brief due dates accordingly.

4. Finally, to clarify, the briefing schedule should be reset upon the Court’s disposition of the Board’s motion, based on the responses filed by the other parties.

Dated: March 14, 2018

Respectfully Submitted

By: /s/ David A. Rosenfeld  
David A. Rosenfeld  
Caren P. Sencer  
WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

Intervenor, INTERNATIONAL UNION  
OF PAINTERS AND ALLIED TRADES,  
DISTRICT COUNCIL 15, LOCAL 159,  
AFL-CIO

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rules of Appellate Procedure 32(g)(1), Proposed Intervenor certifies that Intervenor's **REPLY TO OPPOSITION TO MOTION TO STAY BRIEFING SCHEDULE** contains 251 words of proportionately-spaced, 14 point type, and that the word processing system used was Microsoft Word 2010.

Dated: March 14, 2018

Respectfully Submitted

By: /s/ David A. Rosenfeld  
David A. Rosenfeld  
Caren P. Sencer  
WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

Intervenor, INTERNATIONAL UNION  
OF PAINTERS AND ALLIED TRADES,  
DISTRICT COUNCIL 15, LOCAL 159,  
AFL-CIO

# **EXHIBIT A**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAR 9 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

SARA PARRISH,

Petitioner,

CELLCO PARTNERSHIP,

Intervenor,

v.

NATIONAL LABOR RELATIONS  
BOARD,

Respondent.

No. 17-70648

NLRB No. 28-CA-145221  
National Labor Relations Board

ORDER

CELLCO PARTNERSHIP, DBA Verizon  
Wireless,

Petitioner,

v.

NATIONAL LABOR RELATIONS  
BOARD,

Respondent.

No. 17-71493

NLRB No. 28-CA-145221

NATIONAL LABOR RELATIONS  
BOARD,

Petitioner,

v.

No. 17-71570

NLRB No. 28-CA-145221

CELLCO PARTNERSHIP, DBA Verizon  
Wireless,

Respondent.

The motion to “Sever and Remand in Light of Recent Board Decision” (Docket Entry No. 56 in No. 17-70648) and all responses and replies thereto are referred to the panel to be assigned to decide the merits of these consolidated petitions.

The opening brief for Sara Parrish, the combined answering/opening brief for Cellco Partnership, and the answering brief for the Board have been filed. The combined reply/answering brief for Sarah Parrish remains due on March 12, 2018. Cellco Partnership may file an optional reply brief within 21 days after service of Sara Parrish’s combined reply/answering brief.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Lior A. Brinn  
Deputy Clerk  
Ninth Circuit Rule 27-7

**CERTIFICATE OF SERVICE**

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

I hereby certify that on March 14, 2018, I electronically filed the foregoing **REPLY TO OPPOSITON TO MOTION TO STAY BRIEFING SCHEDULE** with the United States Court of Appeals, Ninth Circuit, by using the Court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Notice of Electronic Filing by the Court's CM/ECF system.

I certify under penalty of perjury that the above is true and correct.  
Executed at Alameda, California, on March 14, 2018.

/s/ Karen Kempler  
Karen Kempler